

DRAFT PROFFERS

**CHPPENN I, LLC
RZ/FDP 2016-MV-014
PCA 78-V-125**

January 4, 2017

Pursuant to Section 15.2-2303(A) of the Code of Virginia, 1950, as amended, and Section 18-204 of the Zoning Ordinance of Fairfax County 1978, as amended (hereinafter referred to as the "Zoning Ordinance"), CHPPENN I, LLC, for and on behalf of the owner, themselves, and their successors and/or assigns (hereinafter collectively referred to as the "Applicant"), in RZ/FDP 2016-MV-014 and PCA 78-V-125 filed on property identified as Fairfax County Tax Map 92-4 ((1)) 82A pt. (hereinafter referred to as the "Application Property") hereby proffers the following, provided that the Board of Supervisors (the "Board") approves a rezoning of the Application Property to the PDH-20 and HC Districts and a concurrent proffered condition amendment (PCA) on the Application Property. Upon approval of the rezoning and PCA, these proffers shall replace and supersede all previous proffers approved on the Application Property. In the event this rezoning and/or PCA is denied by the Board, these proffers and conditions shall immediately be null and void.

1. **CONCEPTUAL/FINAL DEVELOPMENT PLAN (CDP/FDP)**

- A. Development Plan. Subject to the provisions of Section 16-402 of the Zoning Ordinance, the Application Property shall be developed in substantial conformance with the Conceptual Development Plan/Final Development Plan (CDP/FDP), prepared by Christopher Consultants dated May 2, 2016, and revised through December 19, 2016.
- B. Proffered Development Plan. Notwithstanding that the CDP/FDP is presented on twenty-six (26) sheets, it shall be understood that the proffered portion of the CDP/FDP shall be the entire plan relative to the points of access, the maximum number and type of dwelling units, building heights, the amount of open space, the location of the limits of clearing and grading, setbacks from peripheral lot lines and the general location and arrangement of buildings and parking. The Applicant has the option to request a Final Development Plan Amendment (FDPA) for elements other than the CDP elements from the Planning Commission for all or a portion of the FDP in accordance with the provisions set forth in Section 16-402 of the Fairfax County Zoning Ordinance (the "Zoning Ordinance").
- C. Minor Modifications. Pursuant to Section 16-402 of the Zoning Ordinance, minor modifications of the Final Development Plan (FDP) may be permitted as determined by the Zoning Administrator. The Applicant shall have the flexibility to modify the layout shown on the FDP, which shall include the flexibility to decrease the total number of dwelling units and/or modify the type of single-

family attached units, including lot sizes and unit dimensions, shown on the FDP, without requiring approval of an FDPA provided such changes are in substantial conformance with the FDP as determined by the Zoning Administrator and do not increase the total number of dwelling units, increase building height, increase surface parking, decrease the amount of open space, decrease the setback from peripheral lot lines, change the number and/or location of access points, or reduce landscaping as shown on the CDP/FDP. Modifications to clearing limits shown on the CDP/FDP may be permitted at site plan in response to final design without requiring approval of a PCA or an amendment to the CDP/FDP provided such modifications are determined to be in substantial conformance with the CDP/FDP and these proffers.

- D. Development Phasing. Development, including infrastructure, may be phased in any manner so long as vertical construction of the first multi-family building commences prior to or concurrent with commencement of vertical construction of the single-family attached dwelling units.
- E. Fire Marshal Evaluation. Changes to the CDP/FDP may be permitted in response to the review of site plans by the Fire Marshal, including adjustments to landscaping, sidewalks/trails and/or amenities as necessary to allow for required emergency vehicle access, without requiring approval of a PCA or an amendment to the CDP/FDP, provided that such changes are in substantial conformance with the CDP/FDP.
- F. VDOT Evaluation. Changes to the CDP/FDP may be permitted in response to the review of site plans by the VDOT, including adjustments to streetscape, sidewalks/trails and/or amenities as necessary without requiring approval of a PCA or an amendment to the CDP/FDP, provided that such changes are in substantial conformance with the CDP/FDP.
- G. Severability and Future Applications. Pursuant to Paragraph 6 of Section 18-204 of the Zoning Ordinance, one or more of the multifamily buildings or the single family attached dwellings may be the subject of a separate PCA, FDPA, Special Exception ("SE"), Special Permit ("SP"), variance and/or other similar land use application, without joinder and/or consent of the owners of the other portions of the Application Property, provided such application will not change or cause or require a change to the general layout, physical improvements and/or access for such other portions of the Application Property. Previously approved proffered conditions or development conditions applicable to the portion(s) of the Application Property, which are not the subject of such an application, shall otherwise remain in full force and effect as to any such portion(s) of the Application Property not included.

2. PROPOSED DEVELOPMENT

Development of the Application Property shall be limited to a maximum of 454 residential units, comprised of a maximum of 279 multifamily dwelling units, including a minimum of sixty (60) independent living units, located within five (5) multifamily buildings, and a maximum of 175 single family attached dwelling units as shown on the CDP/FDP. Accessory uses, for the use and benefit of the residents, such as business centers, leasing offices and recreational facilities, shall be permitted within the multifamily buildings. The Applicant reserves the right to construct uses in the cellar space, if provided, of each multifamily building. All proffered improvements that reference the multifamily buildings or the single family attached units shall be addressed with the development of that multifamily building or the single family attached units.

3. TRANSPORTATION

A. Richmond Highway

- (i) Dedication. Subject to Virginia Department of Transportation (VDOT) and Fairfax County Department of Transportation (FCDOT) approval, the Applicant shall dedicate at no cost and convey in fee simple with no encumbrances to the Board right-of-way up to a minimum width of ninety-two and one half (92.5) feet from the centerline along the Application Property's Richmond Highway frontage as shown on the CDP/FDP. Dedication shall be made at the time of site plan approval or upon demand of either Fairfax County or VDOT, whichever should first occur.
- (ii) If necessary, the Applicant shall grant a one (1) foot wide access easement to Fairfax County or VDOT within the building zone adjacent to the right-of-way dedicated for Richmond Highway as shown on the CDP/FDP. Said easement shall be granted at time of site plan approval, or upon demand of either Fairfax County or VDOT, for future maintenance of underground utilities.
- (iii) Improvements. The Applicant shall install streetscape and frontage improvements along the Application Property's Richmond Highway frontage as shown on the CDP/FDP. Said improvements shall include the following:
 - a. A six and one-half (6.5) foot wide separated bicycle lane;
 - b. An eight (8) foot wide landscape panel, planted with trees as shown on the CDP/FDP;
 - c. A six (6) foot wide sidewalk; and
 - d. A one (1) foot wide concrete maintenance strip.

In addition, the Applicant shall, in accordance with Proffer 3.E., relocate the existing bus shelter located south of the Application Property to a location along the Application Property's dedicated Richmond Highway frontage as shown on the CDP/FDP. At such time as the bus shelter is relocated by others as a result of improvements to Richmond Highway, the foregoing streetscape and frontage improvements may be modified by others as necessary to accommodate such relocation without the necessity of a PCA, CDPA or FDPA, provided that such modifications are in substantial conformance with the CDP/FDP.

Said improvements shall be constructed prior to the issuance of the first Residential Use Permit (RUP) for the Application Property. The Applicant shall not be responsible for the maintenance or repair of any improvements or landscaping located within the dedicated right-of-way, whether installed by the Applicant or by others.

B. Dart Drive

- (i) Dedication. Subject to VDOT and FCDOT approval, the Applicant shall dedicate at no cost and convey in fee simple with no encumbrances to the Board right-of-way up to a minimum width of fifty two (52) feet along the Application Property's Dart Drive frontage as shown on the CDP/FDP. Dedication shall be made at the time of site plan approval or upon demand of either Fairfax County or VDOT, whichever should first occur.
- (ii) Connection To Arlington Drive. Prior to the first site plan submission for the Application Property, the Applicant shall consult with FCDOT and VDOT regarding the two options shown on the CDP/FDP for the improvement of Dart Drive and its possible connection to Arlington Drive. The option selected by FCDOT and VDOT shall be shown on the submitted site plan. The "connection option," as shown on the CDP/FDP, does not require the acquisition of any off-site right of way.
- (iii) Improvements. The Applicant shall install streetscape and frontage improvements along the Application Property's Dart Drive frontage as shown on the CDP/FDP. Said improvements shall include the following:
 - a. A thirty-six (36) foot wide road section, which shall include two travel lanes and accommodation for on-street parking on both sides of Dart Drive;
 - b. A six (6) foot wide grass strip along the northern side of Dart Drive;
 - c. A five (5) foot wide sidewalk along the northern side of Dart Drive;

- d. A one (1) foot wide maintenance strip along the northern side of Dart Drive;
- e. A three (3) foot wide grass strip behind the face of curb along the southern side of Dart Drive; and
- f. A westbound right turn lane approximately 125 feet in length at the intersection of Richmond Highway and Dart Drive.

Construction of said improvements shall be commenced prior to the issuance of the first RUP for the single family attached portion of the Application Property. The Applicant shall not be responsible for the maintenance or repair of any improvements located within the dedicated right-of-way, whether installed by the Applicant or by others.

- (iv) The Applicant shall apply to VDOT for acceptance of Dart Drive into the Secondary System of State Highways for maintenance at such time as Dart Drive is reconstructed and deemed complete by VDOT inspectors. Acceptance by VDOT of Dart Drive into the Secondary System of State Highways shall occur prior to final bond release.
- C. The Applicant reserves density credit as may be permitted by the provisions of Paragraph 5 of Section 2-308 of the Zoning Ordinance for all eligible dedications described herein, or as may be required by Fairfax County or VDOT at the time of site plan approval.
- D. Signal Modifications. Subject to VDOT approval, the Applicant shall modify the timing of the existing traffic signal, including pedestrian signal heads, at the intersection of Richmond Highway and Dart Drive. Said signal modifications shall be installed prior to the issuance of the first RUP for the Application Property.
- E. Bus Shelter. Subject to VDOT and FCDOT approval, and prior to the issuance of the first RUP for the Application Property, the Applicant shall relocate the existing bus shelter located south of the Application Property to a location along the Application Property's dedicated Richmond Highway frontage as shown on the CDP/FDP. The final design and location of the bus shelter shall be determined at time of site plan approval. The final bus shelter location may necessitate adjustments to landscaping as shown on the CDP/FDP, which shall be accommodated without the necessity of a PCA, CDPA or FDPA, provided that such adjustments are in substantial conformance with the CDP/FDP. Should the bus shelter be relocated on the Application Property as a result of improvements to Richmond Highway, the Applicant shall grant necessary easements for access and maintenance by others.

- F. Private Streets. All of the private streets on the Application Property as shown on the CDP/FDP shall be constructed of materials and depth of pavement consistent with public street standards and in accordance with the Fairfax County Public Facilities Manual ("PFM"). A public access easement in a standard form acceptable to the County Attorney shall be granted over each private street prior to the issuance of the first RUP for the respective multifamily building or single family attached dwelling located adjacent to such private street section.
- G. Transportation Demand Management. The Applicant shall implement a transportation demand management (TDM) program as set forth in a TDM Plan (the "TDM Plan") to encourage the use of transit, high-occupant vehicle commuting modes, walking, biking and teleworking, to reduce automobile trips generated by the Application Property.
- (i) Definitions. For purposes of this Proffer, "Stabilization" shall be deemed to occur one (1) year following issuance of the last initial RUP for the final new dwelling unit to be constructed on the Application Property. "Pre-stabilization" shall be deemed to occur any time prior to Stabilization.
 - (ii) Transportation Demand Management Work Plan. The Applicant shall be responsible for submitting the Transportation Demand Management Work Plan (the "TDM Work Plan") to FCDOT for approval prior to site plan approval. It is the intent of this proffer that the TDM Work Plan will adapt over time to respond to the changing transportation related circumstances of the Application Property, the surrounding community and the region, as well as to technological and/or other improvements, all with the objective of meeting the trip reduction goals as set forth in this proffer. Accordingly, modifications, revisions, and supplements to the TDM Work Plan as coordinated with FCDOT can be made without the need for a PCA, CDPA, and/or FDPA, provided that the TDM Work Plan continues to reflect the proffered elements of the TDM Program as set forth below.
 - (iii) Transportation Management Association. The Applicant shall participate in or otherwise become associated with a larger Transportation Management Association should one be established for this area.
 - (iv) Trip Reduction Goals. The objective of the TDM program shall be to reduce the number of weekday peak hour vehicle trips generated by the residential uses located within the Application Property through the use of mass transit, ridesharing and other strategies including but not limited to those outlined in the TDM Plan. The relocation of the existing bus shelter on the Application Property will provide safe and convenient access to nearby Metrorail and bus facilities, thereby encouraging commuting options other than the automobile to residents, employees and visitors to the Application Property.

- a. Baseline. The baseline number of weekday peak hour residential vehicle trips for the proposed dwelling units within the Application Property against which the TDM Goals (as defined in subparagraph (iv)(b)) shall be estimated based upon the actual number of residential units approved, constructed and occupied on the Application Property at the time traffic counts are conducted or as qualified below and using the trip generation rates/equations applicable to such residential uses as set forth in the Institute of Transportation Engineers, Trip Generation, 9th Edition.
 - b. TDM Goals. Prior to the implementation of the planned Bus Rapid Transit (BRT) for Richmond Highway, the TDM strategies shall be utilized to reduce the weekday peak hour vehicular trips by ten percent (10%). Subsequent to the implementation of the planned BRT, the TDM strategies shall be implemented to reduce the weekday peak hour vehicle trips by an additional fifteen percent (15%).
- (v) Process of Implementation. The TDM Plan shall be implemented as follows, provided that modifications, revisions, and supplements to the implementation process as set forth herein as coordinated with FCDOT can be made without requiring a PCA.
- a. TDM Program Manager. The Applicant shall appoint and continuously employ, or cause to be employed, a TDM Program Manager (TPM) for the Application Property. If not previously appointed, the TPM shall be appointed no later than sixty (60) days after the issuance of the first building permit for the first new dwelling unit to be constructed on the Application Property. The TPM duties may be part of other duties assigned to the TPM. The TPM shall notify FCDOT in writing within 10 days of the appointment of the TPM. Thereafter the Applicant shall do the same within ten (10) days of any change in such appointment.
 - b. Annual Report. Every calendar year after the first issuance of RUP, but no later than March 1, the TPM shall submit an Annual Report, based on a report template provided by FCDOT, in order to incorporate any new construction on the Application Property. Any changes to the TDM Plan shall be highlighted in this report. The Annual Report shall be reviewed by FCDOT. If FCDOT has not responded with any comments within sixty (60) days after submission, then the Annual Report shall be deemed approved and the program elements shall be implemented. If FCDOT responds with comments on the Annual Report, then the TPM will meet with FCDOT staff within fifteen (15) days of receipt of the County's comments. Thereafter, but in any event, no later than

thirty (30) days after the meeting, the TPM shall submit such revisions to TDM Plan as discussed and agreed to with FCDOT and begin implementation of the approved program.

- c. TDM Incentive Fund. The TDM Incentive Fund is an account into which the Applicant, through the TPM, shall deposit contributions to fund a multimodal incentive program for initial purchasers/lessees within the Application Property. Such contribution shall be made on a building by building basis for the multi-family portion of the development at the rate of \$0.01 per gross square foot of new residential use to be constructed on the Application Property and provided prior to the issuance of the first RUP for each building. Such contribution shall be made with each phase of the single family attached portion of the development based on the rate of \$0.01 per gross square foot of new residential use to be constructed on the Application Property and provided prior to the issuance of the first RUP for each phase. In addition to providing transit incentives, such contributions may also be used for enhancing/providing multimodal facilities within and proximate to the Application Property.
 - d. Monitoring. The TPM shall verify that the proffered trip reduction goals are being met through the completion of Person Surveys, Vehicular Traffic Counts of residential and/or other such methods as may be reviewed and approved by FCDOT. The results of such Person Surveys and Vehicular Traffic Counts shall be provided to FCDOT as part of the Annual Reporting process. Person Surveys and Vehicular Traffic Counts shall be conducted for the Application Property beginning one year following issuance of the final initial RUP for the first new building to be constructed on the Application Property. Person Surveys shall be conducted every three (3) years and Vehicular Traffic Counts shall be collected biennially until the results of three consecutive annual traffic counts conducted upon completion of construction show that the applicable trip reduction goals for the Application Property have been met. Any time during which Person Survey response rates do not reach 25%, FCDOT may request additional surveys be conducted the following year. Notwithstanding the aforementioned, at any time prior to or after Stabilization, FCDOT may suspend such Vehicle Traffic Counts if conditions warrant such.
- (vi) Additional Trip Counts. If an Annual Report indicates that a change has occurred that is significant enough to reasonably call into question whether the applicable vehicle trip reduction goals are continuing to be met, then

FCDOT may require the TPM to conduct additional Vehicular Traffic Counts (pursuant to the methodology set forth in the TDM Plan) within 90 days to determine whether in fact such objectives are being met. If any such Vehicular Traffic Counts demonstrate that the applicable vehicle trip reduction goals are not being met, then the TPM shall meet with FCDOT to review the TDM strategies in place and to develop modifications to the TDM Plan to address the surplus of trips.

- (vii) Continuing Implementation. The TPM shall bear sole responsibility for continuing implementation of the TDM Plan and compliance with this proffer. The TPM shall continue to administer the TDM Plan in the ordinary course in accordance with this proffer including submission of Annual Reports.
- (viii) Notice to Owners. All owners of the Application Property shall be advised of the TDM Program set forth in this proffer. The Applicant shall advise all successor owners and/or developers of the requirements of the TDM Program, which shall be included in all initial and subsequent purchase documents.

4. TRAFFIC SIGNAL PRE-EMPTION EQUIPMENT CONTRIBUTION

Prior to the issuance of the first RUP for the Application Property, the Applicant shall contribute the sum of twenty thousand dollars (\$20,000.00) for the installation of signal pre-emption equipment at two (2) intersections to be determined by the Fairfax County Fire and Rescue Department, and located in proximity to the Application Property. The Applicant shall not be responsible for the installation, ongoing maintenance, or repair of the signal pre-emption equipment.

5. OVERHEAD UTILITIES

Notwithstanding the fact that a location for future undergrounded utilities is shown on the CDP/FDP, the Applicant shall not be responsible for the undergrounding of overhead utilities along the Application Property's Richmond Highway frontage. At such time as the undergrounding of overhead utilities along Richmond Highway may be required, the Applicant shall grant, at no cost, any additional necessary easements for utility relocation by others.

6. BICYCLE FACILITIES

- A. On-Site. The Applicant shall provide long-term secured bicycle parking in the underground parking garages of the multifamily buildings, and short-term bicycle parking on the Application Property. The number of bicycle parking spaces provided shall be in accordance with the then-current Fairfax County Bicycle Guidelines at the time of site plan. Bicycle racks shall be inverted U-style racks, or such other design as approved by FCDOT. The location(s) of bicycle parking

spaces shall be determined at time of site plan in coordination with FCDOT, and improvements shall be installed prior to the issuance of the first RUP for the Application Property.

- B. Off-Site. The Applicant shall provide a six and one half foot (6.5') wide separated bicycle lane within the dedicated right-of-way along the Application Property's Richmond Highway frontage as shown on the CDP/FDP and as coordinated with VDOT and FCDOT. The Applicant shall, in coordination with VDOT and FCDOT at the time of site plan, submit a Signage and Pavement Marking Plan (SPMP) for the separated bicycle lane. As part of the SPMP, the Applicant shall demonstrate which part of the bicycle lane will have colored pavement in proximity to the proposed bus shelter. The Applicant shall install signs along the Richmond Highway frontage identifying the location of the bicycle lane to bicyclists and pedestrians. The size, number, content and location of the signs shall be included in the SPMP and determined at the time of site plan in coordination with VDOT and FCDOT.

7. LANDSCAPING

- A. A landscape plan shall be submitted concurrently with the first site plan for the Application Property that shows, at a minimum, landscaping in conformance with the landscape design shown on the CDP/FDP. The landscape plan shall include details for the public plaza and open space areas as shown on the CDP/FDP. The landscape plan shall not include invasive species. The landscape plan shall incorporate native species to the greatest extent feasible; however, this limitation shall not apply to seasonal plantings and ground cover. Adjustments to the type and location of vegetation and the design of landscaped areas and streetscape improvements/plantings shall be reviewed in consultation with DPZ, and as approved by UFMD.
- B. Tree planting proposed in the streetscape and other areas restricted by barriers to root growth shall provide a planting zone a minimum of eight (8) feet wide.
- C. Should VDOT determine at the time of site plan approval that street trees conflict with either the sight distance requirements set forth in the Road Design Manual or any utility requirements, and good faith efforts have been made to resolve such conflicts by making minor adjustments to tree locations and/or removing lower tree branches but VDOT, FCDOT and/or the applicable utility company do not approve such street tree locations, then such tree(s) may, in coordination with UFMD, be removed or replaced at an alternate location without the necessity of a PCA, CDPA or FDPA.

8. ARCHITECTURAL DESIGN AND LAYOUT

- A. Multifamily Buildings. The architectural design of the multifamily buildings shall be consistent with the conceptual elevations as shown on the CDP/FDP. The elevations may be refined as a result of final design and engineering so long as the character and quality of the architecture and building materials of the multifamily buildings remain in substantial conformance with that shown on the CDP/FDP. At the time of final building design, the Applicant shall consider alternative designs of the balconies shown on Sheets 16 – 18 of the CDP/FDP. Low-reflective glass shall be used for the windows in the multifamily buildings. Other building materials for the multifamily buildings may include, but shall not be limited to, the following:
- (i) Burnished block.
 - (ii) Fiber cement panel or siding.
 - (iii) Metal panel.
 - (iv) Metal guardrail.
 - (v) PVC window trim.
 - (vi) Vinyl siding and windows.
 - (vii) Aluminum.
- B. Single Family Attached Dwellings. The architectural design of the single family attached dwellings shall be generally compatible in architecture and appearance with the conceptual images as shown on the CDP/FDP. The final design may be refined as a result of final design and engineering so long as the character and quality of the single family attached dwellings remain generally compatible with those shown on the CDP/FDP.
- C. Garage Covenant. A covenant shall be recorded which provides that garages for the single family attached dwellings shall only be used for a purpose that will not interfere with the intended purpose of garages (e.g., parking of vehicles or storage of trash receptacles). This covenant shall be recorded among the land records of Fairfax County in a form approved by the County Attorney prior to the sale of any single family attached dwellings and shall run to the benefit of the homeowners association and Fairfax County. Prior to entering into a contract of sale, prospective initial purchasers of the single family attached dwellings shall be advised of the use restriction, which shall be included in the homeowners' association documents prepared in conjunction with the proposed development.
- D. Retaining Walls. Retaining walls shall be generally consistent in appearance and materials with the illustrative images provided on Sheets 16 through 18 of the

CDP/FDP, and the cross sections provided on Sheets 20 through 22 of the CDP/FDP. The final design and building materials for the retaining walls shall be determined at the time of site plan.

9. GEOTECHNICAL REPORT

At the time of site plan, the Applicant shall submit a final geotechnical report for review and approval by the Department of Public Works and Environmental Services (DPWES) and the Geotechnical Review Board (GRB). The Applicant shall implement the recommendations of the GRB. Should the approved geotechnical report require substantial modifications to the design and layout as shown on the CDP/FDP, the Applicant may be required to submit an FDPA and/or a PCA to obtain approval of such modifications.

10. GREEN BUILDING PRACTICES

Dwelling units on the Application Property shall be constructed to achieve one of the following programs, or an alternative third-party certification as approved by the Environmental and Development Review Branch (EDRB) of DPZ. Selection of one of the following certification methods, or an alternative, shall be within the Applicant's sole discretion at the time of site plan submission:

- A. Certification in accordance with the EarthCraft House Program for the single family attached dwellings, and/or the EarthCraft Multifamily Program for the multifamily buildings, as demonstrated through documentation provided to DPWES and DPZ prior to the issuance of a RUP; or
- B. Certification in accordance with the 2012 National Green Building Standard (NGBS), using the ENERGY STAR® Qualified Homes path for energy performance, as demonstrated through documentation submitted to DPWES and the EDRB of DPZ from a home energy rater certified through the Home Innovation Research Labs that demonstrates that the dwelling unit has attained the certification prior to the issuance of the RUP for each dwelling; or
- C. An alternative certification program may be selected by the Applicant, subject to the review of EDRB of DPZ at the time of site plan.

11. NOISE ATTENUATION

At time of each building plan submission for the multifamily portion of the development, the Applicant shall submit a refined acoustical analysis for that portion of the Application Property impacted by traffic noise from Richmond Highway having levels in excess of 65 dBA Ldn. If the noise study concludes that a specific portion of any multifamily building will be affected by noise levels that require mitigation, based on final proposed and not existing site topography and conditions, then the refined acoustical analysis will incorporate findings from a building shell analysis based on the building plans to

determine what noise attenuation measures may be needed for that portion of such affected multifamily building. Such study shall be submitted to the EDRB and DPWES for review. Based on the findings of that report, the Applicant shall show any noise impacted units on the site plan and shall provide the following noise attenuation measures, unless otherwise modified by the findings of the building shell analysis:

- A. In order to reduce interior noise to a level of approximately 45 dBA Ldn, those specific residential dwelling units anticipated to be impacted by traffic noise from Richmond Highway having levels projected to be between 65-70 dBA Ldn, shall have the following acoustical treatment measures:
 - (i) Exterior walls shall have an Outdoor to Indoor Transmission Classification (OITC) rating of at least 29.
 - (ii) Doors, windows and glazing shall have an OITC rating of at least 24 unless glazing constitutes more than 10% of any façade exposed to noise levels between 65 and 70 dBA Ldn. If doors, windows and other glazed areas constitute more than 20% of any facade impacted by noise, they shall have the same OITC ratings specified for exterior walls.
 - (iii) Adequate measures to seal and caulk between surfaces shall be provided in accordance with methods approved by the American Society for Testing and Materials ("ASTM") to minimize sound transmission including sealing the backs and sides of receptacle and switch boxes within the exterior walls with a non-hardening intumescent compound and sealing the drywall cutouts with a non-hardening sound sealant.
- B. The Applicant reserves the right to pursue other methods of mitigating highway noise impacts as demonstrated prior to the filing of a building permit through an independent noise study as reviewed and approved by DPWES and DPZ, provided that these methods will be effective in reducing interior noise levels for those impacted residential dwelling units to approximately 45 dBA Ldn and exterior noise within outdoor active recreation areas to approximately 65 dBA Ldn. Non-active recreation areas, such as lawns, hardscape, walkways and planting beds, as shown on the CDP/FDP at the intersection of Richmond Highway and Dart Drive, shall not be deemed outdoor active recreation areas and shall not be subject to the 65 dBA Ldn limitation described herein.

12. TREE CONSERVATION

- A. The requirements and obligations set forth in this Proffer 12 extend only to that portion of the Application Property to be developed by the Applicant, exclusive of the area identified on the CDP/FDP as "Approximate Limits of Public Park (To Be Developed By Others)" (the "Public Park"). The Applicant shall not be responsible for the assessment, conservation or removal of trees or invasive species on the Public Park, unless otherwise specified on the CDP/FDP.

- B. The Applicant shall conform to the limits of clearing and grading as shown on the CDP/FDP, subject to allowances specified in these proffers and for the installation of utilities and/or trails as determined necessary by the Director of DPWES and/or the Fairfax County Park Authority (FCPA), as described herein. If it is determined necessary to install utilities and/or trails in areas protected by the limits of clearing and grading as shown on the CDP/FDP, they shall be located in the least disruptive manner necessary as determined in consultation with UFMD. A replanting plan shall be developed and implemented, subject to approval by the UFMD in accordance with adopted Fairfax County regulations for any areas protected by the limits of clearing and grading that must be disturbed for such trails and utilities. In addition, minor modifications may be permitted within the tree conservation area to implement an invasive species management plan to improve the forested condition or any other practices deemed necessary by FCPA to improve the overall health of existing trees and the usable nature of the Public Park. Any additional clearing within the tree conservation area shall be subject to the review of UFMD. Said modifications shall not necessitate a PCA, CDPA or FDPA.
- C. During any clearing or tree/vegetation removal on the portion of the Application Property to be developed by the Applicant, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted as proffered and as approved by the UFMD and HCD. The Project Arborist shall monitor construction and demolition work and tree preservation efforts in order to ensure conformance with all tree preservation proffers, and UFMD and HCD approvals. The monitoring schedule shall be described and detailed in the tree conservation plan.

13. PARKS AND RECREATION FACILITIES

A. Public Park.

- (i) The Applicant shall, prior to the issuance of the first RUP for the Application Property, or as mutually agreed by the Fairfax County Redevelopment and Housing Authority and the FCPA, dedicate in fee simple and without encumbrances approximately 12 acres of the Application Property to FCPA for the purposes of establishing the Public Park for use by the general public. The Public Park, and any associated amenities, structures and/or other features, shall be designed, developed and maintained by others. All development activity within the Public Park including, but not limited to, clearing, grading, tree preservation and/or conservation, construction and all other activities related to the development of the Public Park shall be performed by and at the expense of others.

- (ii) Access. Access to the perimeter of the Public Park shall be provided through trails and paths constructed by the Applicant only as shown on the CDP/FDP and as further described herein. The Applicant shall be responsible for the maintenance of trails and paths located on that portion of the Application Property to be developed by the Applicant as shown on the CDP/FDP. At the time of site plan approval, the Applicant shall grant public access easements over the trails and paths only as shown on the CDP/FDP. The Applicant reserves the right as part of the public access easements to reasonably control access to, and use of, the easement areas.
- (iii) The Applicant shall provide twenty-three (23) parking spaces located on the northwest portion of the Application Property and designated for use by the general public for access to the Public Park. The Applicant shall install a sign indicating that this parking area is for use by the general public and that overnight parking is prohibited. The Applicant shall provide an ADA-accessible ramp/trail to the perimeter of the Public Park from this parking area as shown on the CDP/FDP. This access shall be subject to a public access easement as described in Subparagraph (ii). The access shall be a minimum of eight (8) feet in width to provide vehicular access to the Public Park from the parking area for use by authorized maintenance vehicles only.
- (iv) The Applicant shall provide a second access to the perimeter of the Public Park through the on-site open space amenity located near the intersection of Richmond Highway and Dart Drive as shown on the CDP/FDP. This access shall be subject to a public access easement as described in Subparagraph (ii). The Applicant shall not be responsible for ensuring that this access is ADA-accessible, however, the Applicant shall ensure that the sidewalk located between multifamily Building 3A and the single family attached portion of the Application Property that connects the Plaza to this access is ADA-accessible. At such time as an ADA-accessible access is provided at this location by Fairfax County or others, such access shall be constructed by others, and the Applicant shall provide the necessary easements for access and construction, provided further that such construction does not unreasonably interfere with the operations of the multifamily housing on the Application Property.
- (v) The Applicant shall provide a third access to the perimeter of the Public Park through a path, trail or walkway located near the eastern border of the Application Property as shown on the CDP/FDP. This access shall be subject to a public access easement as described in Subparagraph (ii). The Applicant shall not be responsible for ensuring that this access is ADA-accessible. At the time of site plan, the Applicant shall consider the use of alternative colors, patterns and/or materials for the sidewalk located

proximate to the eastern border of the Application Property to identify the pedestrian connection to this access.

- (vi) In addition to the access points shown on the CDP/FDP, a public access point(s) may be located along the eastern boundary of the Public Park and constructed by others.

B. On-Site Recreational Facilities. The Applicant shall provide on-site recreational facilities to serve the residents of the Application Property as shown on the CDP/FDP. At time of each submitted site plan, the Applicant shall demonstrate a minimum expenditure of one thousand eight hundred dollars (\$1,800.00) per residential dwelling unit as shown on such site plan, exclusive of affordable dwelling units, for recreational facilities on the Application Property in accordance with Section 6-110 of the Zoning Ordinance. In the event the total cost of recreational improvements constructed on the Application Property is demonstrated to be less than one thousand eight hundred dollars (\$1,800.00) per unit, exclusive of affordable dwelling units, the Applicant shall, prior to approval of the final site plan for the Application Property, provide the remainder in a cash contribution to the FCPA for the development of active recreational facilities in the vicinity of the Application Property.

C. Plaza. The Applicant shall provide an approximately 0.5 acre on-site open space amenity located near the intersection of Richmond Highway and Dart Drive identified as the "Prop. Plaza/Amenity Area With Underground Detention #2" on the CDP/FDP (the "Plaza"). At the time of site plan approval, the Applicant shall grant a public access easement over the Plaza. The design of the Plaza shall be in general conformance with that shown on the CDP/FDP, and may include, but shall not be limited to, the following features:

- (i) Walkways, trails and/or other paths to provide pedestrian access to the Plaza from the interior of the proposed development.
- (ii) Fencing.
- (iii) Benches and/or other seating areas.
- (iv) Landscaping and/or public art to serve as a visual element and focal point.
- (v) A tot lot.
- (vi) Exercise facilities and fitness stations.
- (vii) Wayfinding signs to the future public park, the location, materials and design of which to be determined at the time of site plan.

Construction of the Plaza shall be completed prior to the issuance of the final RUP for the multifamily portion of the Application Property. Minor modifications to the design and size of the Plaza and the features listed above shall be permitted at the time of site plan so long as the character and quality of the Plaza remains in general conformance with the CDP/FDP.

- D. Mews. The Applicant shall provide an on-site passive recreational open space amenity in conjunction with the single family attached dwellings on the Application Property (the "Mews"). The Mews shall be completed prior to the issuance of the final RUP for the single family attached portion of the Application Property. The design of the Mews shall be in general conformance with that shown on the CDP/FDP, and may include, but shall not be limited to sidewalks/walking paths, benches, and trees and ornamental landscaping. Minor modifications to the Mews design shall be permitted at the time of site plan so long as the character and quality of the Mews remains in general conformance with the CDP/FDP.

14. LIGHTING

- A. Compliance With Zoning Ordinance. All outdoor and building-mounted lighting provided on the Application Property by the Applicant shall comply with the Outdoor Lighting Standards of Section 14-900 of the Zoning Ordinance.
- B. Parking Lot and Building Mounted Lighting. Light poles in surface parking lots and building-mounted lighting installed on the multifamily buildings shall utilize shielded cut-off fixtures and be directed inward and downward such that the lamp surface is not directly visible to adjacent properties.
- C. Private Street Lighting. Street lighting located along the private streets within the single family attached portion of the Application Property shall be generally compatible in design and appearance with parking lot lighting located within the multifamily portion of the Application Property so as to create the appearance of an integrated and unified development.

15. PARKING

On-street and surface parking may be provided along the private streets reflected on the CDP/FDP so long as such spaces are striped and meet the dimension requirements of the PFM, subject to approval of any necessary waivers and/or modifications. Residential visitor spaces may be identified by appropriate signage.

16. AFFORDABLE/WORKFORCE HOUSING

The Applicant shall provide a total of 279 multifamily affordable/workforce dwelling units located within the five (5) multifamily buildings on the Application Property as shown on the CDP/FDP. The multifamily units, including the sixty (60) independent

living units located in Building 3A, shall be affordable to households at the following income tiers:

- A. 10% of the units shall be affordable to households earning up to 30% of AMI.
- B. 20% of the units shall be affordable to households earning up to 50% of AMI.
- C. 70% of the units shall be affordable to households earning up to 60% of AMI.

The provision of these units on the Application Property shall satisfy the requirements for affordable housing as set forth in Part 8 of Article 2 and Section 9-306 of the Zoning Ordinance.

17. OWNERS ASSOCIATIONS

- A. Formation of Homeowner Associations. One or more property owner associations (POAs) and/or homeowner associations (HOAs) shall be established and maintained in accordance with Virginia Law by the Applicant.
- B. HOA Maintenance Obligations.
 - (i) The POA(s), HOA(s) and/or the owner of the multifamily portion of the Application Property (the "Multifamily Owner") shall assume all maintenance obligations required by these proffers for infrastructure located within the boundaries of the Application Property. Said maintenance obligations shall include the maintenance, repair and replacement of private streets, sidewalks, the Plaza, open space, stormwater management facilities, recreational facilities, surfaces and site furnishings, and other common areas within the Application Property, including standard cleaning and lawn/landscaping maintenance. The POA(s), HOA(s) and/or the Multifamily Owner shall be responsible for the replacement of dead, dying, or diseased trees and landscaping within the Application Property, but excluding trees and landscaping located within the dedicated right of way or on the portion of the Application Property to be dedicated as a Public Park, with the same size or larger and similar species as originally approved on the landscape plan.
 - (ii) Maintenance obligations may be shared and/or allocated by the POA(s), HOA(s) and the Multifamily Owner for various phases of development of the Application Property pursuant to the POA and HOA documents and/or private shared maintenance agreements.
 - (iii) Purchasers of individual single family attached units shall be advised prior to entering into a contract of sale in the POA and/or HOA documents that the POA and/or HOA shall be responsible for those obligations listed in these proffers.

- (iv) The POA and/or HOA documents shall include a reserve fund that has been initially funded by the Applicant and shall be used to fund maintenance of the private streets and sidewalks.
- C. Purchasers shall be advised prior to entering into a contract of sale and in the HOA documents that the HOA(s) shall be responsible for the obligations listed in these proffers.

18. STORMWATER MANAGEMENT

- A. Subject to the approval of DPWES, the Applicant shall implement a Stormwater Management (SWM) and Best Management Practices (BMP) plan to control the quantity and quality of stormwater runoff from the Application Property. The Applicant shall provide stormwater management facilities as shown on the CDP/FDP. The Applicant shall meet or exceed the minimum state and Fairfax County requirements for stormwater quantity and quality, unless otherwise waived or modified.
- B. Based on the results of appropriate infiltration testing, the Applicant reserves the right to include additional LID practices to reduce the need for off-site nutrient credits.
- C. The Applicant reserves the right to pursue additional stormwater management measures provided the same are in substantial conformance with the CDP/FDP.
- D. Should new stormwater management regulations be issued affecting the Application Property, the Applicant shall have the right to accommodate necessary changes to its stormwater/BMP facility designs without the requirement of a PCA, CDPA or FDPA, or gain approval of any administrative modifications to the CDP/FDP or proffers, provided the facility designs substantially conform with the CDP/FDP.

19. PUBLIC SCHOOLS CONTRIBUTION

- A. As described herein, prior to the issuance of the first building permit for the multifamily portion of the Application Property, and prior to the issuance of the first building permit for the single family attached portion of the Application Property, the Applicant shall contribute to the Board the sum of \$11,749.00 per new student generated by that portion of the Application Property to offset impacts on the public schools that the students are anticipated to attend. Based on formulas prepared by the Fairfax County Public Schools (FCPS), the contribution shall be based on new student yield ratios of .194, .046 and .085 per multifamily dwelling unit for elementary, middle, and high school respectively; and .252, .062 and .127 per single family attached dwelling unit for elementary, middle, and high school respectively. Applying these ratios to the Applicant's proposed development of 219 multifamily dwelling units and 175 single-family attached

units, and taking into account the students that would be generated by the 112 mobile home dwelling units and thirty six (36) single-family detached dwelling units that could be developed on Application Property under existing zoning and prior approvals, the Applicant's proposed development is anticipated to result in a net yield of approximately seventy-two (72) new students. This anticipated net new student yield generates a total contribution of \$845,928.00. Said contribution shall be allocated by the Applicant between the multifamily portion and the single family attached portion of the Application Property, based upon the number and type of residential units developed. Said contribution is to be utilized for capital improvements to FCPS to address impacts on the school district resulting from development of the Application Property.

- B. The sixty (60) independent living multifamily dwelling units located in Building 3A as shown on the CDP/FDP are excluded from the contribution described above in Paragraph A. Prior to the issuance of a building permit for Building 3A, the Applicant shall record a restrictive covenant to the benefit of Fairfax County stating that Building 3A shall be restricted to individuals age 55 years or older. In addition, if, at the time of first building permit issuance for a multi-family residential building(s) other than Building 3A, the Applicant records a covenant to the benefit of Fairfax County stating that the building(s) shall be restricted to individuals age 55 years or older, that building(s) shall be excluded from the contribution described in the above proffer. This exclusion shall no longer be applicable upon release and/or vacation of the restrictive covenant by the Applicant.
- C. The contribution described in Paragraph A. shall be based on the actual number of dwelling units constructed on the Application Property and directed to schools in the West Potomac High School pyramid. Following approval of this application and prior to the Applicant's payment of the amount set forth in Paragraph A., should Fairfax County modify the ratio of students per unit or the amount of contribution per student, the Applicant shall pay the modified contribution amount to reflect the then-current ratio and/or contribution.
- D. The Applicant shall notify FCPS when a site plan has been filed for the Application Property.

20. MISCELLANEOUS

- A. Escalation. All monetary contributions required by these proffers, except as may be further specified in these proffers, shall escalate on a yearly basis from the base year of 2018 and change effective each January 1 thereafter, based on the Consumer Price Index as published by the Bureau of Labor Statistics, the U.S. Department of Labor for the Washington-Baltimore, MD-VA-DC-WV Consolidated Metropolitan Statistical Area, as permitted by Virginia State Code Section 15.2-2303.3..

- B. Timing of Completion. Upon demonstration by the Applicant that, despite diligent efforts or due to factors beyond the Applicant's control, construction of any of the required improvements described herein, including transportation improvements, has been delayed beyond the timeframes specified, the Zoning Administrator may agree to a later date for completion of such improvement without the necessity of a PCA, CDPA or FDPA.
- C. Successors and Assigns. These proffers will bind and inure to the benefit of the Applicant and its successors and assigns. Each reference to "Applicant" in this proffer statement shall include within its meaning and shall be binding upon the Applicant's successor(s) in interest and/or the owners from time to time of any portion of the Application Property during the period of their ownership. Once portions of the Application Property are sold or otherwise transferred, the associated proffers become the obligation of the purchaser or other transferee and shall no longer be binding on the seller or other transferor.
- D. Counterparts. These Proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, and all of which taken together shall constitute but one and the same instrument.

APPLICANT/CONTRACT PURCHASER OF TAX MAP 92-4
((1)) 82A pt.

CHPPENN I, LLC

By:
Its:

[SIGNATURES CONTINUE ON NEXT PAGE]

TITLE OWNER OF TAX MAP 92-4 ((1)) 82A pt.

FAIRFAX COUNTY HOUSING AND REDEVELOPMENT
AUTHORITY

By:
Its:

[SIGNATURES END]